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In re Application of:

Hikedi Ito

Serial No.: 10/726,354

Filed: December 02, 2003

Attorney Docket No.: 9281-4717

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on December 13, 2004, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on April 21, 2004. A Notice of Abandonment was mailed on November 30, 2004.

Petitioner asserts that on June 28, 2004, a response to the Office action was filed. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a), signed and dated June 28, 2004, and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on July 01, 2004.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on July 01, 2004, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

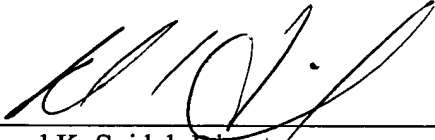
Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on December 13, 2004, is accepted since the originally submitted response was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



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